



The Independent School District of Boise City

8169 W. Victory Rd.
Boise, Idaho 83709

(208) 338-3400
FAX (208) 338-3487

May 10, 2003

FCC
Office of the Secretary
445-12th Street SW
Washington DC 20554

RECEIVED & INSPECTED

MAY 19 2003

FCC - MAILROOM

RE: **APPEAL LETTER**
Boise City Independent Dist 1
Form 471 Application # 314699
Billed Entity # 142750
Funding Request # 837510
CC Docket Nos. 96-45 and 97-21

Dear Sir:

We are appealing the Funding Request # 837510 that was "Denied in Full" in the "Administrator's Decision on Appeal" Letter dated April 1, 2003 (copy attached). The letter indicates that the service is prohibited under section 54.518 of FCC Rules. This section refers to the building or purchase of a "wide area network." We believe that the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) erred in its interpretation of the substance of the arrangement between the District and its communications systems provider, Idacomm.

The Boise Independent School District is not building or purchasing such a network. We are leasing "dark fiber strands" provided by a telecommunications provider (Idacomm). This network takes the exact same format logically as the network it replaced, that is, a network of leased point-to-point T-1 circuits from the local telecommunications company. In prior years, the District received complete funding for the network.

The District has "exclusive access to WAN facilities" only as it relates to the *signal* that we send between schools. We do not have exclusive access to the fiber cables leased to us by Idacomm. Please refer to the letter enclosed from Idacomm that details their network, other customers and future plans for the fiber network. In fact, two of our schools are connected to the network through the use of Idacomm's wave division electronic equipment that divides the light to provide bandwidth to us and other customers on the same fiber optic cable.

During the RFP process, the District considered a variety of proposed solutions from vendors. The purpose of the RFP that resulted in the arrangement with Idacomm was to obtain greater bandwidth. The solutions presented to us included wireless, leased lines, "lit" fiber as well as dark fiber. We considered all types of solutions because we

"Educating Today For a Better Tomorrow" List ABCDE

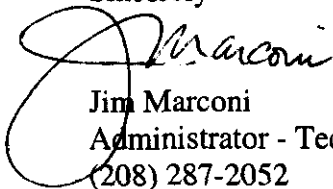
An Equal Opportunity Employer-Educator

No. of Copies rec'd
List ABCDE

recognized that we would still control the *network signal* no matter what transport form it took. We determined that the dark fiber solution is the most cost effective over the long term, and delivers the bandwidth that is a core requirement for our District to serve our students. We hope to reduce our voice communication costs over time through the utilization of this network.

We respectfully request that you reverse the "Denial" of this Funding Request and approve it for funding. Your prompt attention to this appeal is greatly appreciated.

Sincerely

A handwritten signature in black ink, appearing to read "Jim Marconi", is written over a large, loopy circular flourish.

Jim Marconi
Administrator - Technology
(208) 287-2052
(208) 338-3432 FAX
JimMarconi@BoiseSchools.org



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2002-2003

April 1, 2003

Jim Marconi
Boise City Independent Dist 1
8169 W. Victory Rd.
Boise, ID 83709

Re: Billed Entity Number: 142750
 471 Application Number: 314699
 Funding Request Number(s): 837510
 Your Correspondence Dated: December 9, 2002

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2002 Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 837510
Decision on Appeal: **Denied in full**
Explanation:

- You have stated that the Boise ISD is not building or purchasing a wide area network but stating that 1) "Licensor owns fiber optic cable" 2) "Licensor hereby grants to Licensee the exclusive use of the fibers" 3) At the expiration of the License term, or any final renewal term, Licensee shall return the applicable Fibers to Licensor.
- Upon review, it has been determined that this request is for an exclusive access wide area network reaches the same result as that prohibited by section 54.518 of FCC rules, which bars universal service discounts for building or purchase of a wide area network. The appeal by the applicant confirms that they are being granted exclusive use of the fibers. Appeal denied.

- Your Form 471 application included costs for the following ineligible services: **exclusive use of the fibers**. FCC rules provide that discounts may be approved only for eligible services. See 47 C.F.R. §§ 54.502, 54.503. The USAC website contains a list of eligible services. See USAC website, <http://www.universalservice.org>, Eligible Services List. Program procedures provide that if 30% or more of an applicant's funding request includes ineligible services, the funding request must be denied. It was determined that more than 30% of your funding request was for ineligible services. Therefore, your funding request was denied. You did not demonstrate in your appeal that your request included less than 30% for ineligible services. Consequently, SLD denies your appeal.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC) via United States Postal Service: FCC, Office of the Secretary, 445-12th Street SW, Washington, DC 20554. If you are submitting your appeal to the FCC by other than United States Postal Service, check the SLD web site for more information. Please reference CC Docket Nos. 96-45 and 97-21 on the first page of your appeal. **The FCC must RECEIVE your appeal WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER for your appeal to be filed in a timely fashion.** Further information and new options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site, www.sl.universalservice.org.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company